

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PALOMAR MEDICAL TECHNOLOGIES, INC.
and THE GENERAL HOSPITAL
CORPORATION,

Plaintiffs,
Defendants-in-Counterclaim

v.

CUTERA, INC.,

Defendant,
Plaintiff-in-Counterclaim.

Civil Action No. 05-10683-RWZ

**CUTERA’S SECOND MOTION TO DISMISS PURSUANT TO
FEDERAL RULES 12(b)(2) AND 12(b)(3)**

Pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(3), Cutera respectfully renews its motion to dismiss Plaintiffs’ complaint for lack of personal jurisdiction and improper venue. Cutera renews its motion to address the question that the Court posed in its May 5, 2006 Memorandum of Decision: "why the business transactions supporting jurisdiction in the 2002 case would not similarly sustain jurisdiction in the instant case."

As set forth more fully in the accompanying Memorandum, Cutera’s admission of specific personal jurisdiction in an earlier-filed case involving its laser hair removal products does not give rise to personal jurisdiction over Cutera in this case. This is because the products at issue in the instant case – pulsed light hair removal products – are entirely different from the accused laser products at issue in the earlier-filed case. Cutera’s arguments and authorities in support of this motion are more fully set forth in the accompanying Memorandum.

Dated: May 22, 2005

Respectfully submitted,

CUTERA, INC.

By its attorneys,

/s/ Patrick J. O'Toole, Jr.

James L. Messenger (BBO #547238)

Patrick J. O'Toole, Jr. (BBO #559267)

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**CERTIFICATE OF COMPLIANCE
WITH LOCAL RULES 7.1(a)(2)**

I, Patricia Young, state that on May 22, 2006, I conferred with Kate Saxton, Esq., counsel for Plaintiffs, regarding the issue raised in this motion, namely Cutera's belief that Plaintiffs' Complaint should be dismissed for lack of personal jurisdiction and improper venue. Ms. Saxton stated that Plaintiffs will oppose this motion.

Dated: May 22, 2006

/s/ Patricia Young
Patricia Young

CERTIFICATE OF SERVICE

I, Patrick J. O'Toole, Jr., hereby certify that on this 22nd day of May, 2006, a true copy of Cutera's Second Motion To Dismiss Pursuant To Federal Rules 12(b)(2) and 12(b)(3) has been served electronically on:

Wayne L. Stoner
Vinita Ferrera
Kate Saxton
Wilmer Cutler Pickering Hale and Dorr LLP
60 State Street
Boston, MA 02109

/s/ Patrick J. O'Toole, Jr.
Patrick J. O'Toole, Jr.